

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-6 are all the claims pending in the application. Applicant respectfully submits that the pending claims define patentable subject matter.

Claim 6 stands rejected under 35 U.S.C. § 101, allegedly because the subject matter is directed at non-statutory subject matter. The informalities noted by the Examiner have been corrected. Thus, withdrawal of the rejection is respectfully requested

Applicant thanks the Examiner for indicating that claim 3 would be allowed if rewritten in independent form. However, Applicant respectfully declines such rewriting until the Examiner has had an opportunity to reconsider (and withdraw) the rejections of the other claims.

Claims 1, 2 and 4-6 stand rejected under 35 U.S.C. § 103 (a) as allegedly being unpatentable over the admitted prior art "TraceRoute" program in view of the definition of a binary search. Applicant respectfully traverses these rejections.

Initially, Applicant notes the Examiner concedes the TraceRoute program fails to disclose the following features:

stopping recursive processing of the function if a difference between the start distance and the end distance equals one unit;

executing the tracing function recursively with the start distance and the target node distance as parameters;

if said response is a Time To Live Exceeded message from an intermediate node in said list of known nodes, an intermediate node distance and said end distance are used as the at least two parameters[.]

See Office Action, pages 3 and 4.

Nevertheless, the Examiner asserts that the definition of a binary search discloses the above-mentioned features. However, the Examiner further admits that the definition of a binary search does not disclose the required feature of:

wherein if said response is a Time To Live Exceeded message from an intermediate node not in said list of known nodes, said intermediate node is stored in the list of known nodes and a first iteration of said recursive executing uses the start distance and the intermediate node distance as the at least two parameters, and a second iteration of said recursive executing uses the intermediate node distance and the end distance as the at least two parameters, and initially executing said route tracing function with a start distance equal to 0.

See Office Action, page 4.

Instead, the Examiner contends that “the current structure of the claim can be read as receiving a response and then executing one of the following three options. If any of the options is found the claim can be rejected.” See Office Action, page 4. Applicant disagrees with the Examiner’s position.

An obviousness rejection under 35 U.S.C. § 103 requires that the alleged prior art teach each and every feature of the claim. First, Applicant notes the Examiner admits that “[b]inary search does not explicitly disclose step iv.” See Office Action, page 4. Therefore, an obviousness-type rejection cannot be maintained if an claimed feature is missing from the alleged prior art.

Second, contrary to the Examiner's assertion, the features noted above are conditions, not "options." That is, each condition must be performed as part of the method claimed. Therefore, the Examiner's position that "if any of the options is found the claim can be rejected" is without merit.

In view of the above, Applicant submits that claim 1 is patentable over the cited references. Further, Applicant submits that claims 2, 4 and 5 are patentable over the cited references, at least by virtue of their dependency on claim 1. Amended claim 6 is an independent claim. Applicant submits that claim 6 is patentable over the cited references, at least for reasons analogous to those stated above with regard to claim 1.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 1, 2 and 4-6 for the reasons stated above.

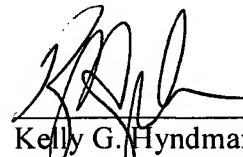
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. APPLN. NO.: 10/090,748

ATTY. MATTER NO.: Q68801

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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